

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Informal Request of ITA for Certification	)	
To Coordinate the Power Radio Service,	)	RM-10687
Railroad Radio Service,	)	
And Automobile Emergency Radio Service	)	
Under Part 90 of the Commission's Rules	)	

**OPPOSITION OF THE AMERICAN AUTOMOBILE ASSOCIATION**

Michele C. Farquhar  
Angela E. Giancarlo  
HOGAN & HARTSON L.L.P.  
555 Thirteenth Street, NW  
Washington, DC 20004  
Tel: 202-637-5600  
Fax: 202-637-5910

Counsel to the American Automobile  
Association

April 25, 2003

## **TABLE OF CONTENTS**

	<b><u>Page</u></b>
I. INTRODUCTION AND SUMMARY .....	2
II. AAA’S ROLE AS EXCLUSIVE FREQUENCY COORDINATOR.....	3
III. THE COMMISSION MUST NOT ALLOW ITA TO COORDINATE THE AERS CHANNELS.....	4
A. The Informal Request Ignores AAA’s Established Role as a Quasi-Public Safety Entity.....	5
B. ITA Provides No Evidence to Justify Grant of the Informal Request.....	8
C. ITA Does Not Possess the Unique Knowledge of the AERS Channels Necessary to Avoid Catastrophic Interference .....	15
IV. PROPER COORDINATION OF THE AERS CHANNELS IS EVEN MORE IMPORTANT IN LIGHT OF THE NATION’S SIGNIFICANTLY INCREASED TRAFFIC CONGESTION AND NEW HOMELAND SECURITY EFFORTS.....	17
V. THE INFORMAL REQUEST IS PROCEDURALLY DEFECTIVE.....	22
VI. CONCLUSION .....	24

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Informal Request of ITA for Certification	)	
To Coordinate the Power Radio Service,	)	RM-10687
Railroad Radio Service,	)	
And Automobile Emergency Radio Service	)	
Under Part 90 of the Commission's Rules	)	

**OPPOSITION OF THE AMERICAN AUTOMOBILE ASSOCIATION**

The American Automobile Association ("AAA"), by counsel and pursuant to Section 1.405(a) of the Commission's rules, 1/ hereby submits its opposition to the above-captioned "Informal Request for Certification to Coordinate the Power Radio Service, Railroad Radio Service, and Auto Emergency Service Under Part 90 of the Commission's Rules" ("Informal Request") filed by the Industrial Telecommunications Association ("ITA") on January 27, 2003. The Consumer and Governmental Affairs Bureau ("CIB") classified the Informal Request as a petition for rulemaking and placed it on public notice on March 26, 2003. 2/

---

1/ 47 C.F.R. § 1.405(a).

2/ Consumer & Governmental Affairs Bureau Reference Information Center, Petition for Rulemaking Filed, *Public Notice*, Report No. 2601 (Mar. 26, 2003).

## I. INTRODUCTION AND SUMMARY

AAA strongly opposes the Informal Request, and submits that permitting multiple frequency coordinators for the Automobile Emergency Radio Service (“AERS”) channels would enable persons without the highly specialized knowledge of the communications needs of automobile emergency responders to make improper and hazardous coordination decisions. Moreover, in making its Informal Request, ITA fails to acknowledge that nothing has changed since Congress expressly recognized AAA as a public safety entity and the Commission designated AAA the exclusive frequency coordinator for the AERS channels. <sup>3/</sup> If anything, the more recent massive efforts to manage and secure the nation’s infrastructure, including the nation’s highway transportation system, lends additional support for maintaining AAA’s role. Finally, the Informal Request is procedurally deficient and falls far short of the Commission’s standards governing petitions for rulemaking. For the reasons set forth below, we urge the Commission to dismiss or deny the Informal Request.

---

<sup>3/</sup> Until 1997, the AERS channels were one of 20 separate Private Land Mobile Radio (“PLMR”) pools. At that time, the Commission consolidated these twenty, more specialized channel pools into two more general pools – one for Public Safety and one for Industrial/Business. See Replacement of Part 90 by Part 88 to Revise the Private Land Mobile Radio Services and Modify the Policies Governing Them and Examination of Exclusivity and Frequency Assignments Policies of the Private Land Mobile Services, *Second Report & Order*, 12 FCC Rcd 14307 (1997) (“*Second Report & Order*”). For sake of clarity and in keeping with the private wireless industry custom, we will continue to refer to these channels as AERS.

## **II. AAA'S ROLE AS EXCLUSIVE FREQUENCY COORDINATOR**

AAA, which observed its 100<sup>th</sup> anniversary in 2002, is a not-for-profit federation of 77 auto clubs with more than 46 million members in the United States and Canada. AAA's primary mission is to promote highway driver and vehicle safety, including the provision of emergency road services. AAA responds to over 30 million road service calls annually, more than 80,000 a day. Almost one-third of these calls involve an immediate threat to life or property, and AAA must respond on a time-critical basis. In addition to responding to emergency calls from its members, AAA works hand-in-hand with state and local public safety entities to provide traffic incident management and disaster relief, lending its unique expertise while also easing the burden on these financially strapped agencies.

AAA has been using two-way voice radios for mobile communications since the early 1940s. In the 1950s, the Commission established specific frequencies for auto clubs and independent road service providers by creating the AERS frequency pool. In fact, AAA coordinated road service providers' FCC radio station applications prior to the organized frequency advisory committees established by the Commission in 1986, and has served as the frequency advisory committee for the AERS frequencies. It is beyond challenge that AAA best understands the road service business and how frequency assignments on the AERS channels can be used efficiently and effectively.

Indeed, AAA's role as frequency coordinator for the AERS channels is vital to AAA's public safety function. AAA is synonymous with "help is on the way." All Americans, whether members of AAA or not, rely on AAA's ability to quickly and

expertly respond to and manage roadside incidents – wherever and whenever they occur. This ability is due, in no small part, to the continuous and unimpeded availability of the AERS frequencies to AAA’s clubs and their dispatchers and drivers. Maintaining safe driving conditions on our nation’s roadways is wholly dependent on AAA’s ability to respond to emergency situations and, in turn, AAA’s ability to respond is dependent on the proper and prudent coordination of the AERS frequencies.

### **III. THE COMMISSION MUST NOT ALLOW ITA TO COORDINATE THE AERS CHANNELS**

The Commission must not allow ITA to coordinate the AERS channels. First, the Informal Request is inconsistent with federal legislation recognizing AAA’s public safety status and the Commission’s related precedent. Second, ITA provides no justification or evidence to support its request to coordinate the AERS channels. In fact, ITA fails to acknowledge that the circumstances upon which the Commission made its original decision have not changed. Finally, facilitating communications among automobile emergency responders is a unique and highly technical skill, and requires a frequency coordinator that possesses very specialized knowledge. AAA’s frequency coordinators efficiently and effectively meet this need, providing timely, “white glove” customer service that is, and always has been, within the Commission’s guidelines.

**A. The Informal Request Ignores AAA’s Established Role as a Quasi-Public Safety Entity**

Competitive frequency coordination of the AERS channels is inconsistent with Congress’s recognition of AAA as a public safety entity and the Commission’s designation of AAA as the exclusive coordinator of the AERS channels.

**Congress recognized AAA as a public safety entity.** Congress expressly recognized the valuable public safety services provided by AAA in the Balanced Budget Act of 1997, and classified auto emergency services as “public safety radio services” for purposes of the exemption from spectrum auctions. <sup>4/</sup> The statute specifically exempted licenses issued “for public safety radio services, including private internal radio services used by State and local governments and non-governmental entities and including emergency road services provided by not-for-profit organizations.” <sup>5/</sup> Congress explained that “[t]his service exemption also includes radio services used by not-for-profit organizations that offer emergency road services, such as the American Automobile Association (AAA). The Senate included this particular exemption in recognition of the valuable public safety provided by emergency road services.” <sup>6/</sup>

---

<sup>4/</sup> Balanced Budget Act of 1997, Pub. L. No. 105-33, 111 Stat. 251 (1997) at § 3002(a)(2)(A).

<sup>5/</sup> *Id.*

<sup>6/</sup> H.R. Report 105-217 at 572.

**The Commission designated AAA as the exclusive frequency coordinator for the AERS channels.** In 1999, following the extensive Refarming proceeding, 7/ the Commission designated AAA as the exclusive frequency coordinator for the AERS channels. 8/ The Commission explicitly recognized the importance of designating AAA as the exclusive coordinator of the AERS channels and provided a meaningful rationale for its conclusion. The Commission stated that “emergency road services are called upon several hundred times each day, often by law enforcement officials ... [and] the communications necessary to effect the prompt clearing of the highways must be clearly and rapidly conveyed, because delay can result in serious injury or death to motorists if the vehicles remain in place.” 9/ The Commission concluded that “automobile emergency road services have a significant quasi-public safety component involving safety on the nation’s highways” and cited to the “importance Congress placed on emergency road services” in its deliberations leading to the 1997 Balanced Budget Act as additional support for its ruling. 10/

---

7/ See generally *Second Report & Order*; Replacement of Part 90 by Part 88 to Revise the Private Land Mobile Radio Services and Modify the Policies Governing Them and Examination of Exclusivity and Frequency Assignment Policies of the Private Land Mobile Services, *Second Memorandum Opinion & Order*, 14 FCC Rcd 8642 (1999) (“*Second Memorandum Opinion & Order*”) (collectively, the “Refarming Orders”).

8/ See *Second Memorandum Opinion & Order*, 14 FCC Rcd at 8650-52.

9/ *Id.* at 8650-51.

10/ *Id.* at 8651.



In reaching its decision, the Commission also relied extensively upon the special needs of the emergency road service industry and the public safety entities it serves, as set forth in an exhaustive record. <sup>11/</sup> Although this decision was made several years ago, there has been no change in the circumstances that led the Commission to its conclusion. In fact, the discussion set forth in Section IV, *infra*, makes plain what most Americans already know from firsthand experience -- the nation's roadways have become *significantly more congested* since that time. Moreover, the terrorist attacks of September 11<sup>th</sup> have brought a new recognition of the vulnerabilities of the nation's highways, their critical importance to the national infrastructure, and the fact that they (and the travelers on them) must be protected

---

<sup>11/</sup> See, e.g., Letter from Dr. Ricardo Martinez, Administrator, U.S. Dept. of Transportation, Nat'l Highway Traffic Safety Admin., to William Kennard, Chairman, Fed. Communications Comm'n, PR Docket No. 92-235 (June 17, 1998) (highlighting AAA's public safety-related work at the national and local levels); Letter from Joseph Osterman, Director, Office of Highway Safety, National Transportation Safety Board, to William Kennard, Chairman, Fed. Communications Comm'n, PR Docket No. 92-235 (June 4, 1998) ("The Safety Board believes that its relationship with the AAA has been an excellent partnership in promoting national highway safety issues, and that this strong partnership will continue to permit us to accomplish the most important of safety goals in the future."); Letter from Laura Ludwig, Ohio Office of the Governor's Highway Safety Representative and Chair, Nat'l Ass'n of Governors' Highway Safety Representatives, to William Kennard, Chairman, Fed. Communications Comm'n, PR Docket No. 92-235 (May 20, 1998) ("AAA's commitment to highway and traffic safety makes the organization a valuable partner for NAGHSR. AAA effectively provides the public with accurate and reliable safety information and services, and its status as a non-profit organization enhances the credibility of its materials."); Letter from Dennis A. Garrett, Police Chief, City of Phoenix, Ariz., to Reed Hundt, Chairman, Fed. Communications Comm'n, PR Docket No. 92-235 (May 13, 1997) (explaining the Phoenix Police Department's reliance on AAA for assistance with emergency situations and urging the Commission to place the AERS frequencies in the public safety channel pool).

in the event of a terrorist threat. These reasons alone lend additional support for maintaining AAA's role as exclusive frequency coordinator for the AERS channels.

Finally, as discussed above, the Commission has expressly acknowledged that the introduction of competitive coordination on the AERS channels will *not* promote the provision of emergency services to the public. Given the complexity, scope and uniqueness of automobile emergency communications networks, knowledge of the automobile emergency response industry is essential to assure proper frequency coordination decisions. If entities such as ITA, which have little to no connection with or knowledge of the automobile emergency response industry, are allowed to perform the frequency coordination function, that assurance would be lost. At a minimum, such a radical change would impede the effectiveness of the critical emergency services provided by AAA, upon which the nation's travelers and public safety entities have come to rely.

**B. ITA Provides No Evidence to Justify Grant of the Informal Request**

ITA provides no justification or evidence that would support a finding that the AERS channels should be opened to competition, or that ITA would be the best candidate to compete with AAA in its role as coordinator for these channels. First, ITA is not representative of the AERS channel users. Second, ITA could not easily devise and implement a coordination plan that would meet the needs of AERS channel users. Although ITA has experience in coordinating frequencies, it does not possess the specialized expertise that would avoid catastrophic interference on the AERS channels. Likewise, ITA's self-described "nationwide coordination

capability” is only one of many tools required to effectively coordinate the AERS channels.

**ITA is not representative of the AERS channel users.** In the Informal Request, ITA claims that it is representative of the users of the frequencies to be coordinated. <sup>12/</sup> Specifically, ITA states that “many of [its] clients include ... automobile emergency eligibles that use their communication systems for safety-of-life operations on a daily basis in services that ITA now seeks certification to coordinate.” <sup>13/</sup> ITA goes so far as to assert that it is “intimately familiar not only with these frequencies, but also with these applicants.” <sup>14/</sup> However, ITA provides absolutely no evidence in support of this broad statement. For example, ITA makes no showing that it represents, or has experience with, the AERS channels or the users of these channels. In fact, AAA knows of no club that has engaged ITA to coordinate on the AERS channels. In any event, ITA’s experience with the AERS channels and the automobile emergency response industry does not come close to that possessed by AAA – a 101 year-old entity dedicated extensively to the promotion of highway safety.

ITA also suggests that it should be allowed to coordinate the AERS channels because it “meets the criteria for FAC-coordination of the power, railroad

---

<sup>12/</sup> Informal Request at 6-7.

<sup>13/</sup> *Id.*

<sup>14/</sup> *Id.* at 7.

and automobile emergency radio service channels.” 15/ In support of this argument, ITA cites the fact that it meets the Commission’s standards to certify the 800 and 900 MHz frequencies. 16/ However, this certification does not apply to the quasi-public safety AERS channels. The standards for coordinating AERS channels are found in the *Second Memorandum Opinion & Order*, where the Commission concluded that AAA is uniquely qualified to coordinate the AERS channels due to the quasi-public safety nature of its automobile emergency road service. 17/

Indeed, the unique nature of AAA and the emergency road service industry is underscored by the fact that the Commission denied the requests of the American Trucking Association, the Alarm Industry Communications Committee, and the International Taxicab and Livery Association, among others, who sought designation to exclusively coordinate the frequencies previously allocated to their respective industries. 18/ “After carefully evaluating the arguments advanced by those seeking coordination procedures comparable to those of the power, petroleum and railroad industries, the Commission believes that *only* AAA has made a persuasive showing that it should be granted [such] coordination parity ... the Commission does not believe safety-related communications of these other

---

15/ Informal Request at 6.

16/ *Id.*

17/ *Second Memorandum Opinion & Order* at 8650-52.

18/ *Id.*

petitioners are either as frequent or as potentially serious from the standpoint of the overall public welfare, as emergency road service communications.” 19/

Having a single, centralized frequency coordinator for the automobile emergency response industry ensures that the AERS channels will be used efficiently and effectively and will facilitate clear, continuous communications between AAA dispatchers and drivers. There is no other organization that is as intimately familiar with the intricacies of this industry and its past, present, and future wireless communications requirements.

**ITA cannot easily devise and implement a coordination plan that would meet the needs of AERS channel users.** In support of the Informal Request, ITA claims that it can easily accommodate the needs of the AERS channel users simply by broadening its current coordination authorization procedures to include these services and that doing so “would be an extension of the work we are currently performing.” 20/ ITA casually suggests that all relevant information necessary for the task is set forth in the Commission’s ULS database. 21/ ITA is wrong.

As a preliminary matter, due to the users’ extreme intolerance for interference and the safety of life issues at stake, coordination of the AERS channels is not a project that can be undertaken lightly. While the ULS has, in

---

19/ *Id.* at 8650 (emphasis added).

20/ Informal Request at 7.

21/ *Id.*

some ways, made it easier for coordinators to communicate and to share information, 22/ the system in no way conveys all of the highly specialized, technical knowledge possessed by an experienced AERS coordinator.

The huge volume of ULS frequency coordinations – averaging approximately 1,500 to 2,000 every month and often more than one hundred in a given day – precludes effective monitoring of potential interference problems by AAA’s frequency coordinator. In addition, the computer database used by the FCC and private radio coordinators does not always allow frequency coordinators to access new information about frequencies in an efficient, straightforward manner. For example, the application may not contain any engineering analysis, or such analysis may not be appended with the application information. In either case, the engineering materials are not readily accessible for the additional scrutiny that is necessary to identify possible problems. Even if the coordination information were available in a user-friendly fashion, many interference problems may not be apparent based on the general information contained in the daily notifications. The notifications process offers no better protection than “seeking a needle in a haystack.” Unfortunately, it is often impossible to identify a potential problem until it is too late. 23/

---

22/ *Id.* at 8.

23/ Of course, frequency coordinators consider their work an “art” rather than a “science.” All frequency coordinators have their own styles and methods. Moreover, there is no agreement among coordinators with respect to the specific criteria that should be used to assign shared spectrum like the AERS channels. In addition to those discussed above, these factors also contribute to the difficulty that frequency

ITA also suggests “because power, railroad, and automobile emergency coordinators will be receiving notification of certifications on these channels, these coordinators will have the opportunity to review, and object if necessary, to a specific coordination they feel threatens incumbent licensees.” 24/ In reality, providing *post hoc* notifications will not protect the integrity of the AERS channels. Moreover, this statement belies ITA’s claim that allowing it to coordinate the AERS channels will increase efficiencies. 25/ Indeed, allowing an inexperienced coordinator to coordinate the AERS channels would create a large inefficiency for AAA. At the outset, this situation would necessitate that AAA decipher coordinations that it did not perform. On top of that, AAA would have the burden of resolving problems associated with such “external” coordinations even though the coordination assignment would be out of AAA’s control. Besides, ITA already contacts AAA regularly with “inter-service” sharing requests and no problems have emerged. AAA fully cooperates with ITA in these instances and notes that it has been successful in finding an AERS channel for the ITA applicant 94 percent of the time. 26/

---

coordinators have in communicating less tangible, but still very important, information among one another.

24/ Informal Request at 8.

25/ *Id.* at 10-11.

26/ Indeed, it is significant that AAA accepts inter-category sharing requests when another coordinator handles an application. Although AAA is the exclusive coordinator for the AERS channels, the association does not require that it handle any and all applications for the AERS channels as long as AAA’s concurrence is sought.

In addition, as noted by the American Association of Railroads (“AAR”), the upcoming migration to narrowband technology contemplated by the Commission in its proceeding for land mobile spectrum will only add complexities to the current challenges faced by AAA. 27/ The planning and implementing of the transition to narrowband channelization will require extraordinary coordination, requiring a frequency coordinator that is thoroughly familiar with the AERS channels and the needs of the automobile emergency response industry. Introducing additional coordinators would exacerbate an already difficult process of maintaining safe and reliable operations in a highly interactive radio environment. 28/

AAA’s unique ability to coordinate the AERS frequencies was developed on the basis of informal assignment criteria over a period of several decades. The resulting expertise is an invaluable and nontransferable asset of AAA, as well as a major, ongoing justification for the Commission’s original decision to certify it as the sole coordinator on the AERS channels. The situation has not changed – emergency road service providers have ongoing needs that are unique

---

27/ Opposition of the Ass’n of American Railroads, RM-10687 (filed Apr. 23, 2003) at 8-9.

28/ In fact, the Public Safety Coordinators have recognized that frequency coordinators must be representative of applicants and users of the channels for which they have frequency coordination responsibility. See Joint Reply Comments of the American Ass’n of State Highway and Transportation Officials, Ass’n of Public-Safety Communications Officials-International, Inc., Forestry Conservation Communications Ass’n, and International Municipal Signal Ass’n/International Ass’n of Fire Chiefs, Inc., RM-10077 (filed Jan. 21, 2003) at 6-7.



and AAA is indisputably the only entity with the requisite knowledge to coordinate the AERS frequencies.

**C. ITA Does Not Possess the Unique Knowledge of the AERS Channels Necessary to Avoid Catastrophic Interference**

Although ITA has experience in coordinating frequencies, it does not possess the necessary expertise that would avoid catastrophic interference on the AERS channels. Likewise, ITA's self-described "nationwide coordination capability" is only one of many tools required to effectively coordinate the AERS channels. In reality, allowing additional coordinators to compete for the opportunity to coordinate the AERS channels will have serious implications for the automobile emergency radio industry.

As a not-for-profit entity, AAA has no profit motive and uses its specialized knowledge of the AERS channels to provide its members, as well as public safety entities, with the means to avoid catastrophic loss during emergency events. 29/ In this regard, AAA's small frequency coordination operation fulfills a very beneficial role for the public. Although AAA is controlled by and answerable to its members, as discussed above, AAA is synonymous with automobile emergency response. Therefore, all Americans, members and non-members alike, rely on AAA's expertise. This is all the more reason to dismiss or deny the Informal Request and permit AAA to maintain its role.

---

29/ In fact, the revenue AAA generates from frequency coordination covers less than half of the service's operating costs. The remaining costs are underwritten by AAA as a member benefit/public service.

Indeed, AAA's master frequency coordinator has 12 years of experience. In addition, AAA has trained a second coordinator to ensure responsive service during especially busy times. This coordinator is actively engaged in learning all of the idiosyncrasies of the automobile emergency response industry and the AERS channels. Both of AAA's frequency coordinators have offices within AAA's Orlando, Florida headquarters. As such, they are able to easily access all research, development, and other studies undertaken by AAA. This enables them to assess and analyze new technologies under consideration by the automobile emergency response industry to identify their possible impact on future spectrum use. AAA's frequency coordinators are thoroughly familiar not only with the day-to-day operations of the automobile emergency response industry, but also with the unique frequency coordination issues presented by the industry's current and projected frequency usage.

AAA's frequency coordinators limit the safety exposure of operations by maintaining a high degree of sensitivity to the implications and special requirements of the various automobile emergency response units. AAA is particularly proud of its expeditious and effective service, even though the association's primary focus is not the frequency coordination business. AAA spends an average of three hours on a given frequency coordination and subjects all coordination requests to extensive engineering analysis, even beyond what is required by the coordination standards set by the Land Mobile Communications Council.

AAA's frequency coordinators provide targeted, "white glove" service to all requesting parties. For example, AAA does not rely solely on computers, which use criteria such as the number of call signs on a channel within a given distance, but instead selects and assigns channels based on personal and highly specialized knowledge and engineering techniques. AAA estimates that a majority of frequency coordination requests it receives from applicants other than its clubs stem from the applicant's dissatisfaction with an assignment it received from a large coordinator. These applicants want the special care offered by AAA, whose coordinators take the time necessary to guide them through the Commission's very detailed paperwork. Novice applicants in particular appreciate this level of attention and, in this regard, AAA fills a niche that some other coordinators do not want to fulfill. Similarly, and as discussed above, AAA takes pride in the fact that it makes every effort to make AERS spectrum available to users outside of the automobile emergency service industry. As long as engineering analysis supports no interference to an emergency response service entity, AAA will allow the applicant to use an AERS channel.

The Informal Request ignores AAA's established role as a quasi-public safety entity. In addition, ITA provides no evidence to justify grant of the Informal Request. Moreover, ITA does not possess the unique knowledge of the automobile emergency response industry and use of the AERS channels. For these reasons, the Commission cannot allow ITA to coordinate the AERS channels and must dismiss or deny the Informal Request.

#### **IV. PROPER COORDINATION OF THE AERS CHANNELS IS EVEN MORE IMPORTANT IN LIGHT OF THE NATION'S SIGNIFICANTLY**

## INCREASED TRAFFIC CONGESTION AND NEW HOMELAND SECURITY EFFORTS

Proper coordination of the AERS channels is even more important given the nation's significantly increased traffic congestion and new focus on homeland security. The automobile emergency response community must maintain its ability to develop and implement initiatives designed to improve the efficiency and reliability of time-critical communications in response to highway and homeland security emergencies.

**The nation's roadways have become significantly more congested.** The Federal Highway Administration ("FHWA") has testified before Congress that growing traffic congestion threatens the nation's economy and quality of life. <sup>30/</sup> U.S. Department of Transportation ("DOT") Secretary Norman Y. Mineta has recognized that "[u]nless we manage highway congestion, our nation will continue to incur economic costs in forgone productivity, wasted fuel, and a reduced quality of life." <sup>31/</sup> To enhance the operation of highways, the DOT has expressly called for "increased coordination among agencies responsible for roadway operations, including traffic, public safety, ... and emergency response agencies." <sup>32/</sup>

---

<sup>30/</sup> FHWA Administrator Testifies That Growing Traffic Congestion Threatens Nation's Economy, Quality of Life, U.S. Dept. of Transportation, *News Release* (May 21, 2002) ("FHWA News Release").

<sup>31/</sup> *Id.* at 1.

<sup>32/</sup> *Id.* at 2.

To support this position, the FHWA relies on the Texas Transportation Institute's *2002 Urban Mobility Report* ("TTI Report"), 33/ which clearly illustrates the growing severity of the triple threat faced by America's travelers: 34/

- The time penalty for peak period travelers has jumped from 16 hours per year in 1982 to an astounding 62 hours per year in 2000. 35/
- The period of time when travelers might experience congestion in a given day has increased from 4.5 hours in 1982 to seven hours in 2000. 36/
- The volume of roadways where travel is congested has grown from 34 percent in 1982 to 58 percent in 2000. 37/

In addition, the TTI Report estimates that in the 75 urban areas studied in 2000, drivers experienced 3.6 billion hours of delay and wasted 5.7 billion gallons of fuel. Total congestion costs for these areas, including time and fuel, is estimated to be approximately \$67.5 billion annually. 38/

This data demonstrates that traffic congestion has become an increasingly frustrating part of daily life. Indeed, highway congestion is not just a

---

33/ See [www.fhwa.dot.gov](http://www.fhwa.dot.gov). The FHWA website contains multiple links to the TTI Report. See also, Traffic Congestion and Sprawl, Fed. Highway Admin. Office of Operations, News Release (Nov. 19, 2002), located at [www.fhwa.dot.gov/congestion](http://www.fhwa.dot.gov/congestion).

34/ *2002 Annual Mobility Report*, Texas Transportation Institute (released June 20, 2002), located at: <http://mobility.tamu.edu/ums>.

35/ *Id.* at iii.

36/ *Id.* at 14.

37/ *Id.*

38/ *Id.* at 20.

problem of recurring rush hour delays in major cities. More than half of all congestion is non-recurring – caused by crashes, disabled vehicles, and other temporary, but crippling, disruptions to the highway transportation system. 39/ These troublesome statistics make plain that the Commission’s 1999 rationale for designating AAA as the exclusive frequency coordinator for the AERS channels is even more fitting now. Traffic congestion is a colossal problem in this nation. As the widely recognized expert in managing highway safety, AAA must have the ability to fulfill the expectations of the American public and the nation’s state and local government agencies. Thus, AAA must be permitted to continue to serve as the exclusive frequency coordinator for the AERS channels to ensure the association’s ability to play its important role in responding to and clearing roadway incidents.

**The nation’s infrastructure, including its highways, are subject to terrorist threat.** As discussed above, both Congress and the Commission have recognized the benefits provided by AAA. In the period since, the terrorist attacks of September 11<sup>th</sup> have sensitized all Americans to federal, state, and local first responders’ critical need for access to communications. The nation is reminded almost daily of the vulnerabilities surrounding its infrastructure, including its highway transportation systems. The nation’s homeland security effort includes an increased awareness of the viability and reliability of the quasi-public safety services, including those provided by the automobile emergency response industry

---

39/ FHWA News Release at 1.

(pursuant to its use of the AERS channels). <sup>40/</sup> Moreover, the Department of Homeland Security has indicated that the highway transportation system is a “key asset” of the nation and therefore has included the highway infrastructure in its physical protection plan. <sup>41/</sup>

At a time when the nation’s highway system, and those traveling on it, could be threatened in a terrorist attack, it is more critical than ever that AERS channel users have interference-free access to spectrum, as well as designated coordinators with specialized knowledge of their unique and vital communications needs. There is too much at stake for the Commission to entrust the frequency coordination function to an organization such as ITA that possesses neither the knowledge, experience, nor insights held by AAA with respect to the automobile emergency response industry.

---

<sup>40/</sup> See Homeland Security Act of 2002, Pub. L. No. 107-296, 116 Stat. 2135 (2002). Section 508 discusses the Secretary of Homeland Security’s use of national private sector infrastructure for emergency response to major disasters.

<sup>41/</sup> See, e.g., OFFICE OF HOMELAND SECURITY, THE EXECUTIVE OFFICE OF THE PRESIDENT, THE NATIONAL STRATEGY FOR THE PHYSICAL PROTECTION OF CRITICAL INFRASTRUCTURE AND KEY ASSETS (Feb. 2003) at 54, 57-58 (identifying threats to highways, trucking, and busing infrastructure and outlining efforts to protect transportation infrastructure); FEDERAL HIGHWAY ADMINISTRATION, U.S. DEPARTMENT OF TRANSPORTATION, FOCUS, After 9/11: Making Transportation Security a Way of Life (Sept. 2002) (presenting overview of state and federal measures implemented to address threats to transportation infrastructure), located at <http://www.tfhr.gov/focus/sep02/01.htm>; Homeland Security: Communications Industry Considers Measures to Protect Nation’s Communications Services Against Attack, *FCC News Release* (Dec. 6, 2002) (FCC Chairman Powell said, “[O]ur nation’s communications network must be secure and protected to ensure that public safety, health, and law enforcement officials are able to respond and ensure the flow of information.”).

## V. THE INFORMAL REQUEST IS PROCEDURALLY DEFECTIVE

The Informal Request does not meet the Commission's substantive requirements for petitions for rulemaking and therefore should be dismissed pursuant to Section 1.401(e) of the Commissions rules. 42/

Section 1.401(c) of the Commission's rules states that a petition for rulemaking "shall set forth the text or substance of the proposed rule, amendment or rule to be repealed, together with all facts, views, arguments and data deemed to support the action requested, and shall indicate how the interests of the petitioner will be affected." 43/ The Informal Request does not satisfy these requirements. First, neither the text nor substance of a proposed rule can be found anywhere in the Informal Request. ITA simply notes that Part 90 of the Commission's rules will be impacted by a grant of its requested relief. Second, the Informal Request provides no concrete evidence to support its request that it serve as an additional AERS frequency coordinator. Rather, ITA simply contends, without any empirical data whatsoever, that it is qualified to fulfill AAA's emergency service function, and that ITA's inclusion as an AERS frequency coordinator will provide competitive "benefits". 44/

---

42/ AAA, the Association of American Railroads, the United Telecommunications Council, and the American Petroleum Institute have filed a "Joint Opposition" to the Informal Request. *See* Opposition to the ITA Informal Request, RM-10687 (filed Apr. 25, 2003) ("Joint Opposition"). Among other things, the Joint Opposition contains a lengthy discussion of the Informal Request's procedural infirmities.

43/ 47 C.F.R. § 1.401(c).

44/ Informal Request at 11.



Third, and perhaps most egregiously, the Informal Request fails to fully explain how ITA's interests will be affected by the proposed rulemaking. Instead, ITA boldly seeks special relief from the Commission's rules for its own pecuniary benefit. While ITA posits itself as a paragon of competition for the AERS frequencies, its Informal Request does not include an offer to open the petroleum channels to competition. 45/ This suggests that ITA views competition as a boon, unless it is already the exclusive coordinator for a given industry.

---

45/ Informal Request at 8-9.

## VI. CONCLUSION

As set forth above, the Informal Request ignores Congress's recognition of AAA as a public safety entity and the Commission's designation of AAA as the exclusive coordinator of the AERS channels. In addition, ITA does not provide sufficient justification to support grant of the Informal Request. Moreover, proper coordination of the AERS channels is even more important now than ever, given the significantly increased traffic congestion and new focus on homeland security efforts. Finally, the Informal Request is procedurally defective. For these reasons, AAA urges the Commission to dismiss or deny the Informal Request.

Respectfully submitted,

*Michele C. Farquhar/aeg*

---

Michele C. Farquhar  
Angela E. Giancarlo  
HOGAN & HARTSON L.L.P.  
555 Thirteenth Street, NW  
Washington, DC 20004  
Tel: 202-637-5600  
Fax: 202-637-5910

Counsel to the American Automobile  
Association

April 25, 2003